

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 13
)
THERESA A. WILLIAMS) CASE NO. 03-80594-MHM
)
Debtor)

ORDER

On January 11, 2005, Debtor filed *pro se* a motion to reopen. Debtor seeks to correct the amount owed to the State of Georgia ("GDR") for 1999 taxes. Debtor's original schedules, filed *pro se* October 3, 2003, showed GDR was owed \$60.76. Amended schedules filed December 11, 2003, omitted the GDR claim. The amendment Debtor filed with her motion to reopen shows a GDR claim of \$2053.

Pursuant to 11 U.S.C. §350(b), a case may be reopened "to administer assets, to accord relief to the debtor, or for other cause." Bankruptcy Rule 5010 provides:

a case may be reopened on motion of the debtor or other party in interest pursuant to §350(b) of the Code. In a Chapter 7 or a Chapter 13 case a trustee shall be appointed unless the court determines that a trustee is not necessary to protect the interests of creditors and the debtor or to insure efficient administration of the case.

A decision to reopen a case pursuant to §350(b) is within the discretion of the bankruptcy court. *In re Blossom*, 57 B.R. 285 (Bankr. N.D. Ohio 1986).

Debtor's motion to reopen appears to be unnecessary. Reopening to amend schedules to add a previously omitted creditor has no effect on whether that creditor's claim is discharged.

Keenom v. All American Marketing, 231 B.R. 116, 121 fn 5 (Bankr. M.D. Ga. 1999) (J. Walker);

In re Cheely, 280 B.R. 763 (Bankr. M.D. Ga. 2002); *Beezley v. California Land Title Company*, 994 F. 2d 1433 (9th Cir. 1993); and *In re Mendiola*, 99 B.R. 864 (Bankr. N.D. Ill. 1989). A logical extension of this rationale is that the discharge of the claim is not governed by the amount a debtor assigns to it in the bankruptcy schedules. As this is a Chapter 7 case, no creditor could be prejudiced by any *res judicata* effect of a plan provision defining the amount of a claim. *See also Universal American Mortgage Co. V. Bateman*, 331 F. 3d 821 (11th Cir. 2003).

Nevertheless, Debtor has paid the filing fee to reopen and that fee would not be refunded if her motion were denied. Although it appears that no bankruptcy purpose will be served by reopening, it also appears that no party will be prejudiced by reopening. Debtor has already prepared and filed the amendment to reflect the correct amount of the GDR claim. Accordingly, it is hereby

ORDERED that this case is reopened and Debtor's amendment to her Schedule F to add the claim of the Georgia Department of Revenue - Income Tax Division, in the amount of \$2053 for 1999 taxes, is allowed. Allowance of this amendment *does not* constitute a finding that GDR's claim is or is not an unsecured, nonpriority claim. It is further

ORDERED that because this case is not being reopened to administer assets and because Debtor does not seek any further relief under the Bankruptcy Code, reappointment of a trustee is unnecessary. Additionally, the reopening of this case revests no property of the debtor in the estate and imposes no automatic stay pursuant to § 362 of the Bankruptcy Code or otherwise. It is further

ORDERED that if no motion or other pleading is filed, on the 30th day following the date of entry of this order, the Clerk, U.S. Bankruptcy Court, is authorized to close this case in the usual manner without the necessity of a final report from the Trustee.

The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon Debtor, the Georgia Department of Revenue, the Chapter 7 Trustee, and U.S. Trustee.

IT IS SO ORDERED, this the ____ day of June, 2005.

MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE